

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DEBBIE SINYAN,

Plaintiff,

v.

SWEDISH HOSPITAL MEDICAL CENTER,  
et al.,

Defendants.

Case No. C10-1432-RSM

**ORDER DISMISSING § 1983  
ACTION**

Plaintiff proceeds in forma pauperis in this action brought under 42 U.S.C. § 1983 alleging disability discrimination by Swedish Hospital Medical Center in terminating her employment. She also has named defendant Christie Williams, her union representative, alleging violation of her 14<sup>th</sup> Amendment due process right under her union contract. Summons was issued to plaintiff for service as to the defendants on October 25, 2010. On October 27, 2010, United State Magistrate Judge Brian A. Tsuchida determined that Plaintiff's initial complaint failed to state a claim upon which relief could be granted and issued a Report and Recommendation ("R&R") in which he recommended that Plaintiff's complaint be dismissed without prejudice. Dkt. #13. Proof of service of summons on the Defendants was filed with the Court on November 1, 2010. Dkt. #s 15, 16.

Following the issuance of the R&R, Plaintiff filed two affidavits (Dkt. #s 17, 19), a Request

1 for Ruling (Dkt. #18), and Objections to the R&R (Dkt. #26). None of the documents filed by  
2 Plaintiff address or cure the deficiencies identified by Judge Tsuchida in the R&R. Plaintiff  
3 contends that, because summons has been issued, the Court can no longer dismiss Plaintiff's  
4 claim. *See* Dkt. #26. Plaintiff is mistaken. A Court may dismiss a case filed by a plaintiff  
5 proceeding in forma pauperis at any time if the court determines that the action fails to state a  
6 claim upon which relief may be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii). Accordingly, the  
7 Court, having reviewed the Report and Recommendation of Brian A. Tsuchida, United States  
8 Magistrate Judge, and the balance of the record, does hereby find and ORDER:

9 (1) The Court adopts the Report and Recommendation, except as to the portion of the  
10 R&R that references dismissal prior to service, as service has already been rendered.

11 (2) The complaint and this § 1983 action are **DISMISSED** without prejudice for  
12 failure to state a claim on which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

13 (3) The Clerk is directed to send copies of this Order to plaintiff and to Judge  
14 Tsuchida.

15 DATED this 29 day of November 2010.

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19 RICARDO S. MARTINEZ  
20 UNITED STATES DISTRICT JUDGE  
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